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EXAMINER

PRIETO, BEATRIZ

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/653,784
Filing Date: September 01, 2000
Appellant(s): CARIS ET AL.

Yuri Kateshov (Reg. No. 34,466)

For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/06/06 appealing from the Office action mailed 12/02/05.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal except from those set forth by appellant.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The statement of the amendments after final filed status of claims contained in the brief is incorrect. Objection to the claims 2, and 3 has not been withdrawn. Status of the claims in the advisory action mailed 2/15/06 is the same status of the claims on final office action mailed 12/05/05. Amendment after final filed has been entered.

However it only corrects the previously noted semi-colon at the end of claim 7, but does not correct deficiencies noted regarding claims 2 and 3, although these claims were amended on said after-final.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

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(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The following evidence/references are relied upon by the examiner in the rejection of the claims under appeal.

- | | | | |
|----|--------------|-------------------|----------------|
| 1. | US 6,490,726 | HARRISON, et. al. | Dec. 03, 2003 |
| 2. | US 6,477,573 | LEA | Nov. 05, 2002 |
| 3. | US 6,314,572 | LaROCCA et. al. | Nov. 06, 2001 |
| 4. | US 5,410,326 | GOLDSTEIN | April 25, 1995 |

(9) Grounds of Rejection***Claim Objection(s)***

1. Claims 2 and 3 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Thus, for example, if claim 1 recites the combination of elements A, B, C, and D, a claim reciting the structure of claim 1 in which D was omitted or replaced by E would not be a proper dependent claim, even though it placed further limitations on the remaining elements or added still other elements (see MPEP 608.01(n)). After-final Amendment filed 1/23/06, does not correct this noted deficiency. Objection is sustained.

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2. Claim 7 as amended on amendment after final filed 1/23/06 it now is in a form compliant as set by MPEP 608.01(m), namely, it ends with a period, this objection is hence hereby withdrawn.

Claim Rejection under 35 USC 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstein (US 5,410,326) in view of Lea (US 6,477,573).

Regarding claim 1, Goldstein teaches a method for programming a remote control device to controlling a variety of consumer equipment (col 3/lines 14-28, col 1/lines 6-11);

connecting a cable television converter box (appliance) to a service provider (server) over a network in response to a user controlling a remote control device (col 4/lines 9-26);

server including a program origination facility (col 12/lines 23-33), a head end cable facility (col 13/lines 47-57, col 16/lines 28-32) and a data base service provider (col 15/lines 20-26, and col 21/lines 43-56, over a network col 8/lines 42-46);

requesting by the service provider in response to said connection via said appliance (112), information from the user to provide corresponding to the user's equipment for which codes are desired (col 15/lines 41-44);

the user supplying to the server via the appliance said requested information (col 15/lines 44-48),

the server retrieving from a repository based on said supplied information the corresponding equipment control codes requested (col 15/lines 46-53);

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repository correlated the equipment information received with their corresponding control codes (col 15/lines 49-53);

downloading from said server connected to said appliance requested control codes (col 15/lines 49-53, 62-67, col 16/lines 1-3);

programming the remote control with said control codes from the service provider via a bidirectional communication link the remote control device downloaded via the appliance (col 13/lines 47-55, col 16/lines 29-32) including

downloading from a source of programming code (server) to the interface/converter code data for use in controlling electronic equipment and programming the remote control according to code data via said appliance (col 3/lines 14-44), said interface being part of the appliance (col 4/lines 14-25);

although Goldstein teaches said information supplied by the user is via said appliance's telephone interface connected to said provider; and downloading IR codes for controlling different types of equipment including stereo-phones and VCR and correlating the equipment with the corresponding IR codes, he does not explicitly teach where said repository correlates the version and equipment brand with their corresponding control codes;

Lea teaches a registry serving as directory service for a consumer electronic network, the registry comprising listing of software elements in the network software of a network device (112), specifically, element information or attributes corresponding to a listing of software elements in the network software (316), software elements include device control modules (422) and one or more corresponding functional control modules (423) (col 6/lines 6-40), said network device (112) comprising various types of consumer electronics devices, such as PCs, digital video disk devices, television sets, audio reproduction systems, video tape recorders (VCRs) and set-top boxes for digital video broadcasting (col 4/lines 28-41). The device control module (422) includes a software element that is used to control a specific corresponding device on the network and includes one or more directly corresponding functional control modules (423) that each control a specific functional component within the particular device that corresponds to the module (423) (col 6/lines 52-67);

said registry (412) includes means (416) which maintain a current list of all devices in the network including updating relevant software element when ever a device is added of removed

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from the network (col 7/lines 13-29), said registry includes a software identifier corresponding to the network device and a corresponding attribute list, the attribute list include relevant information corresponding to the associated software element, including element manufacturer, element model, a version level (col 7/lines 52-65);

creating queries to locate a desired software element in the network, said queries configured in any appropriate format, may specify desired criteria such as software element attributes (col 8/lines 16-23), transmitted queries perform a lookup procedure to determine whether any registered software element satisfies the query criteria (i.e. match), returning the identifier of the software element which satisfies the criteria (col 8/lines 16-33).

It would have been obvious to one of ordinary skill in the art at the time the invention was made given the teachings for programming a remote control device to controlling a variety of consumer equipment, the teachings of Lea for providing a directory service for a network comprising various types of consumer electronics devices above-mentioned including remote control device, would be read readily apparent. One would be motivated utilize Lea's registry correlates the version and equipment manufacture with their corresponding software element (control codes), and/o to propagate remote queries that conserve network resource and minimize the network traffic, further given the capabilities in the Goldstein system the menus provided by the data base and selectable using the remote control as configured by therein may select updated version of software elements searchable at the data base by the consumer in response to an upgrade advertisement broadcast by the head end to its subscribers according to their contracts.

Regarding claim 2, a menu for the consumer based on his/her subscription, i.e. subscriber's services for programming the consumer's remote control device (Goldstein: col 10/lines 3-10, col 16/lines 28-32, col 18/lines 14-22).

Regarding claim 3, transmitting a downloaded codes via a wireless link from the set-top converter "appliance" to the remote control device for programming (Goldstein: col 18/lines 14-22).

Claims 4-6 (canceled)

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Claims 17-18 (canceled)

Regarding claim 20, a single user action associated with the menu on the programmable device allows the execution of multiple activities on a particular consumer equipment (Goldstein: col 14/lines 3-28).

Regarding claim 21, a display for graphically representing on the remote control for programming it (Goldstein: col 14/lines 3-28).

Regarding claim 22, programming the remote control device according to the menu system (Goldstein col 14/lines 3-28) using an appliance to download programming data to the remote control device (Goldstein: col 12/lines 23-33).

8. Claims 7-12, 14-16, 19, and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstein in view of Lea in further view of LaRocca et. al. (US 6,314,572) LaRocca (hereafter).

Regarding claim 7, comprising similar limitation as those discussed on claim 1, same rationale of rejection is applicable, further limitations include

- an appliance configured to provide from a programming source (server) control codes to a remote device (Goldstein: col 3/lines 14-44);

- said control codes from said server are provided according to information (user profile) associated with the remote control device (col 3/lines 45-51 and col 4/lines 6-10);

- the remote control device configured to control the appliance (col 3/lines 14-28);

- the remote control device when operated by the user causing a connection between the appliance and a service provider (server) (col 4/lines 11-26);

- said server discloses using sets of information, plurality of user profiles, e.g. a contracts or subscriptions for a plurality of consumers “user profiles” to which services are provided (Goldstein: col 17/lines 62-col 18/line 3);

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said server configured to request information from an appliance corresponding to equipment responsive to connection with the appliance (col 15/lines 41-44); although Goldstein teaches maintaining subscription information for each subscriber of a plurality of subscriber sent to the head end system (i.e. server) information that identifies consumer electronics equipment, for providing to each subscriber services in accordance to each individual subscription, it does not explicitly describe where this information is stored in a data repository, e.g. a database;

LaRocca teaches storing a subscriber/consumer profile and billing information in a database (154) of a customer management system (150), database 154 containing specific customer subscription information pertaining to a customer's type of services (col 5/lines 27-41 and base subscription col 9/lines 52-65).

It would have been obvious to one ordinary skilled in the art at the time the invention was made, that the consumer's subscription in the Goldstein reference(s) including information that identifies the consumer electronics equipments for which the head end is to download IR codes via the cable converter to control different appliances for each consumer according to their respective subscription, is a stored file or record pertaining to each consumer. Subscription information it identifies the services the consumer has paid for and the services the head end will provide, it would have been obvious and readily apparent to one ordinary skilled in the art that each consumer subscription file or record is stored, means to store subscriber's files are further exemplified by the LaRocca reference as being stored in a storage medium, e.g. a database.

Regarding claim 8, the appliance connected to said server enables the consumer "user" to "customize" the programming of the remote control device with codes received from the server (Goldstein: col 10/lines 3-10).

Regarding claim 9, the appliance transmits programming code via wireless signal to the remote control device (Goldstein: RF link col 17/lines 33-31).

Regarding claim 10, appliance is a cable television converter (set-top) box (Goldstein: col 5/lines 29-41).

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Regarding claim 11, comprises limitation discussed on claim 1, same rationale of rejection is applicable. Further limitation include, stored information (formerly “customer base” now “data repository”) on each consumer “user profiles” that identifies at the server information associated with the consumer including the identifying the remote control devices with which the set-top converter “appliance” is authorized to operate and supplying all the required IR codes to operate consumer’s electronic equipment (LaRocca: database (154) col 5/lines 27-41 and base subscription col 9/lines 52-65 and Goldstein: col 17/lines 62-67).

Regarding claim 12, supplying services including consumer’s remote control device programmed code via the “respective network compatible devices”, i.e. set-top converter for programming the remote control (Goldstein: col 17/lines 62-67 and col 18/lines 14-22).

Claim 13 (canceled)

Regarding claim 14, receiving at the server information about the consumer’s electronic equipment (Goldstein: col 4/lines 6-10 and col 9/lines 39-45);

using information obtained about the consumer’s electronic equipment for programming the remote control device (Goldstein col 17/lines 62-67), the programmed remote control device for controlling a plurality of consumer’s electronic equipment (Goldstein: col 12/lines 23-33);

each consumer information containing information about the consumer electronics equipment of the user (Goldstein: col 17/lines 62-67).

Regarding claim 15, comprising similar limitation as those discussed on claims 1 and 7, same rationale of rejection is applicable, further limitations include

providing at a server connected to a data network, an subscription “user profile” comprising information about the user’s consumer electronic equipment (Goldstein: col 4/lines 6-10 and col 9/lines 39-45, LaRocca: col 5/lines 27-41 and col 9/lines 52-65);

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programming a remote control device for controlling the user's consumer electronic equipment by using the information about the user's consumer electronic equipment, e.g. their respective IR codes (Goldstein: col 3/lines 58-67);

the server storing information about the user's consumer electronic equipment in a storage means "customer base", thereby creating user profiles base on subscriptions thereof (Goldstein: subscription representing the services, see col 3/lines 29-67, col 16/lines 28-32, col 17/lines 62-67 and col 18/lines 14-22 and LaRocca: database (154) col 5/lines 27-41 and base subscription col 9/lines 52-65).

Regarding claim 16, the limitations of this claim are substantially the same as the limitation of claim 1, 7, and 15, same rationale of rejection is applicable.

Claims 17-18 (canceled)

Regarding claim 19, an user selects through a screen selection "menu" of services "operations" desired provided by the downloaded data (Goldstein: col 18/lines 14-22, col 12/lines 44-53, link menu see col 9/lines 1-49).

Regarding claim 23, programming the remote control device according to the menu system (Goldstein col 14/lines 3-28) using an appliance to download programming data to the remote control device (Goldstein: col 12/lines 23-33).

Regarding claim 24, user interface data provides information of the features that support consumer interaction with the remote control device (Goldstein: col 9/lines 1-49).

9. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstein in view of Lea, applied on claim 1, in further view of Harrison et. al. (US 6,490,726).

Regarding claim 25, the applied prior art teaches connecting said television converter box (appliance) to a service provider (server) over a network in response to a user controlling a

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remote control device, as discussed on claim 1, however does not explicitly teach where the network is the Internet;

Harrison et. al. teach connecting a cable television converter box (appliance) to a service provider (server) over a network in response to a user controlling a remote control device, where the network is the Internet. Specifically, an Internet mode of operation which allows an appliance user to easily and quickly connect to and reach a site on the Internet (col lines 25-36) using a dedicated button of are remote control of an appliance (col 2/lines 37-45), login on to the Internet by pressing a single button (col 2/lines 53-55);

connecting a cable television converter box (appliance) to a service provider (server) over a Internet network in response to a user controlling a remote control device, e.g. pushing button 72 (col 5/lines 32-38).

It would have been obvious to one of ordinary skill in the art at the time the invention was made given the suggestion of Goldstein for connecting with a service provide and/or interactive performing any other commercial transaction supported by the remote control, the teachings of Lea for establishing a connection to the Internet by actuating a single button with a service provide would be readily apparent. One would be motivated to employ the INTERNET mode of operation, because in doing so the appliance user does not need to know anything about computers or how computers are used to access the Internet, as disclosed by Harrison et. al.

(10) Response to Arguments

1. It is argued that Goldstein does not teach “connecting an appliance to a dedicated server on the network”, because the reference merely provides an automated dialing interface for placing telephone calls.

In response to the above-mentioned argument, Appellant’s interpretation of the applied prior art has been considered. The inventions disclosure has been ensure that the appropriate interpretation to the claimed terms has been applied. The invention’s specification lacks antecedent basis to the claimed term “network connectable appliance”, the appliance is described in exemplary manner as being a set-top box, where the associated remote control device, is programmable in order to adopt control codes for other infrared (IR) or radio frequency (RF) controllable equipment that the consumer has installed or will install in his/her home (specs page 7, lines 1-8). The method comprises enabling connecting appliance 104, here an STB, to server 108 on the Internet 106 in response to the consumer controlling remote control device 102. Preferably, remote 102 has a dedicated button 118 for allowing the consumer to connect STB 104 via the Internet 106 to a specific server 108 (specs page 7, lines 9-29). Since there was no specific definition given for the term(s), “appliance” or “dedicated server” in the specification, the term should be given its broadest reasonable interpretation and take on the ordinary and customary meaning attributed to it by those of ordinary skill in the art, *E-Pass Technologies, Inc. v. 3Com Corporation*, 343 F.3d 1364, 1368, 67 USPQ2d 1947, 1949 (Fed. Cir. 2003).

In this case, argued claim limitation recites, “connecting a network connectable appliance to a dedicated server on the network in response to the particular user controlling the particular user’s remote control device”. The broadest reasonable interpretation to the claims has been applied inlight of the specification, which lack a controlling definition, as mandated (see MPEP 2111/2106). For the purposes of examination, the argued claim limitation has been interpreted as, *connecting a device to a host/provider on the network in response to the user controlling his/her remote control device*.

The applied prior art, Goldstein teaches a *programmable remote control device* connected over a bi-directional link to either a cable converter or a telephone interface for receiving programming information, the remote control device is capable of placing a connection call

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with a service provider, by including a telephone interface, as part of the cable television converter to *place a call to a vendor*, storing the vendor's telephone in the remote control system, *upon command selection made on the universal remote control device, a command is sent to the telephone interface to establish a phone connection with the service provider* (see column 4, lines 11-26).

In this manner, Goldstein teaches argued claim limitation, particularly, connecting a cable converter (set-top box/appliance) device to a service provider on the network in response to the user controlling his/her remote control device.

2. It is argued that Goldstein does not teach “requesting by the dedicated server via the network connectable appliance, alphanumeric information from the particular user, corresponding to the particular user’s consumer electronic equipment, wherein said dedicated server request is made to said network connectable appliance”, because the caller in Goldstein inputs information via the touch pad on the telephone not via the connectable appliance.

In response to the above-mentioned argument, Appellant’s interpretation of the applied reference has been considered. Broadest reasonable interpretation in light of the specification has been applied to the claims. In this case, the claimed terms “dedicated server”, “network connectable appliance”, “particular user”, has been previously discussed above. According to the invention’s disclosure, the server presents a web site on a TV display monitor (not shown) connected to set-top box (STB) that *guides* the consumer to providing certain information; the consumer interacts via STB with server through a user-input means (not shown), e.g., a wireless keyboard, a remote control or another user-input means to supply to server alphanumeric information, e.g., brand, type, serial number, about his/her further equipment, e.g., appliance, for which he/she desires remote to be programmed with the relevant control codes and/or user interface (UI) aspects (see specs page 7, lines 16-29).

For the purposes of examination, the argued claim limitation has been interpreted as, *requesting by the host/provider via the appliance, (i.e. sent thereto), information from the user, corresponding to an equipment.*

Goldstein teaches connecting the cable converter/set-top box device (appliance) to a host/provider on the network in response to the user controlling his/her remote control device, as

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discussed above (column 4, lines 11-26). The cable converter/set-top box device (appliance) connects to a database on the network initiated by the user. The data base has all the required infrared codes and programming data for operating appliances manufactured by various manufacturers for the remote control device, where the codes may also be supplied by a service provider, e.g. a retailer or by the data base (see col 15/lines 20-31); The customer initiates a telephone call with the service provider (data base) via a appliance (telephone interface) associated with the service provider, once the call has been placed, the service provider request using a prerecorded message the customer to provide the information, i.e. phone number from which the call is being made. The providing service supplying the infrared codes will then verify that the phone number is the same as a caller ID number which has been obtained at the data *provider's* location (see col 15/lines 32-40), then the service provider via the prerecorded message requests other information, i.e. the zip code of the caller, and the equipment list for which infrared codes are desired, where the customer can input the information requested via the touch pad on the telephone (col 15/line 41-47).

Appellant seems to argues that although Goldstein teaches claim limitation requesting by the dedicated server alphanumeric information from the particular user, corresponding to the particular user's consumer electronic equipment, he does not teach where the request is made via the appliance, because *the user inputs the information requested via the touch pad on the telephone, the not via the appliance.*

However, the cited portion Appellant relies on explicitly, states that the customer initiates a call with the service provider (data base) via a modem/telephone interface (112) associated with the database, specifically, teaching that "Either the customer or point of sale retailer initiates a telephone call with the data base via a modem/telephone interface 112 associated with the data base 111" (see column 15, lines 32-34), where the telephone interface can be "either as part of the cable television converter, or as part of the customer's telephone system", as discussed above.

Emphasis is made that in the Goldstein reference the modem (216) connected to a processor (214) in the telephone interface which is part of the appliance establishes a telephone connection with the database (*not to a telephone as argued*) (column 21, lines 17-22, 38-42, 53-56); the appliance comprising the telephone interface (*not the telephone as argued*) provides for an interactive system of messaging between the user, the head end cable facility and a third party

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data base supplier (column 21, lines 43-52). The inputs on the touch pad on the telephone can also be made on the remote control in response to request from the service provider/data base (see column 33, lines 35-44)

The cited portion upon which Appellant relies on actually recites, "The caller **can** input the information requested via the touch pad on the telephone". This is because Goldstein teaches *two types of connections* via which the remote control can be programmed with infrared codes provided from service provider, namely, via the telephone line or via the cable television converter (appliance). Specifically, Goldstein teaches that the customer/subscriber can receive different infrared codes for the variety of device all having different manufactures that the consumer may have and thus the required different infrared codes can be received as part of that facility's remote control device programming service. The programmable remote control communicates via a bi-directional communications link with a cable television converter (appliance), connected to a service provider (head end system) to download programming code to the remote control device (column 3, lines 38-44). *Alternatively*, the remote control device may be programmed at the point of sale or via a telephone coupler to a remotely connected programming source (column 3, lines 61-column 4, line 1), the telephone coupler is connected via a telephone line to a programming source (column 3, lines 29-34).

Thus, the caller **can** input the information requested via the touch pad on the telephone, when the telephone coupler is connected via a telephone line to a programming source, as noted by Appellant. However, in the Goldstein reference when download programming code to the remote control device via the cable television converter (appliance) connected to a service provider, in this embodiment, the remote control includes a touch screen which display icons representing services which the customer has subscribed, providing the customer with selection to be made by the customer based on the service for which a contract was obtained, this way the service provider controls the selections made by the customer (column 3, lines 45-51). The touch screen display is capable of producing a series of menus, all linked together so that the user may easily scroll through layer of the various functions and select a particular device and/or programming service (column 4, lines 6-10), *the appliance received menus and other information from a data base service connected to the network, where the menus may be displayed on the television* (column 8, lines 42-46, 52-56).

According to the invention's disclosure discussed above, the server presents a web site on a TV display monitor (not shown) connected to set-top box (STB) that *guides* the consumer to providing certain information; the consumer interacts via STB with server through a user-input means (not shown), e.g., a wireless keyboard, a remote control or another user-input means to supply to server alphanumeric information, e.g., brand, type, serial number, about his/her further equipment, e.g., appliance, for which he/she desires remote to be programmed with the relevant control codes and/or user interface (UI) aspects (see specs page 7, lines 16-29).

Thus, the claimed clause, "requesting" by the server, seems to pertain to the presentation of information that *guides* the consumer to provide certain information, given the broadest reasonable interpretation, the claimed "*requesting by the server*" functionality, is not distinguishable over function in which the service provides displays icons in the screen of the remote control representing services which the customer has subscribed, providing the customer with selection to be made by the customer based on the service for which a contract was obtained, this way the service provider *controls* the selections made by the customer, producing a series of menus, all linked together so that the user may easily scroll through layer of the various functions and select a particular device and/or programming service.

Thus, Goldstein teaches argued limitation as interpreted, namely, *requesting by the host/provider via the appliance, (i.e. sent thereto), information from the user, corresponding to an equipment.*

The argued claim limitation, requesting by the host/provider via the appliance, (i.e. sent thereto), information from the user, corresponding to an equipment, is not limited by how or where does the user receive the request, so as long as the service provider sends it to appliance, thus the user may receive the request from other peripheral devices connected to the appliance, e.g. monitor/screen, the television or the remote control all coupled to the appliance via which the request is received. Specifically, Goldstein teaches where the appliance received menus and other information from a data base service connected to the network, where the menus may be displayed on the television (column 8, lines 42-46, 52-56),

Hence, arguments that Goldstein does not teach a server request made to appliance, because the inputs in response to the request is provide via the touch pad on the telephone, not via the connectable appliance has been considered but not found persuasive.

3. It is argued that Goldstein does not teach “connecting a network connectable appliance to a dedicated server on the network in response to the particular user controlling the particular user’s remote control device”, because in Goldstein a customer and a database communication occurs after the customer initiates a telephone call with the database.

In response to the above-mentioned argument, Appellant’s interpretation of the applied prior art has been considered. For the purposes of examination, the argued claim limitation has been interpreted as, *connecting a device to a host/provider on the network in response to the user controlling his/her remote control device.*

The applied prior art, Goldstein teaches a *remote control device* connected over a link to either a cable converter or a telephone interface for receiving programming information, the remote control device having a *touch screen display is employed on the programmable remote control device for displaying icons of functions to be selected* (see abstract). Specifically, Goldstein teaches where the programmable universal remote control device is capable of other functions, such as placing a connection call with a service provider, by including a telephone interface, as part of the cable television converter to *place a call to a vendor*, where the digits of the vendor’s telephone can be stored in the remote control system, *upon command selection made on the universal remote control device, a command is sent to the telephone interface to establish a phone connection with the service provider* (see column 4, lines 11-26).

In this manner, Goldstein teaches argued claim limitation, particularly, connecting a cable converter (set-top box/appliance) device to a service provider on the network in response to the user controlling his/her remote control device.

4. It is argued that the Lea reference does not teach where the “data repository that relates versions and brands of consumer electronics to their respective control codes, and on which a query is performed based on alphanumeric information supplied by a particular users”, because the registry in Lea includes relevant information corresponding to the listed software elements.

In response to the above-mentioned argument, Appellant’s interpretation of the applied prior art has been considered. The invention’s specification has been reviewed for any controlling definition that may determine the interpretation applied the to claimed term(s) during

examination. Since there was no definition given for the claimed terms “types” and “brands” in the specification of instant invention, these term should be given its broadest reasonable interpretation and take on the ordinary and customary meaning attributed to it by those of ordinary skill in the art (MPEP 2111/2106). Thus, the claimed term “types of consumer electronic equipments” was held to encompass a characteristic, or set of characteristics, that causes them to be regarded as a group of consumer electronic equipments, such as manufacturer, or the functional capabilities of the consumer electronic equipment, e.g. VCR, etc., and the claimed term “brands of consumer electronic equipments” was held to encompass a kind or variety of something distinguished by some distinctive characteristic, e.g. a class, grade, make, or mark made to attest manufacture or quality or to designate ownership, e.g. trademark, a class of goods identified by name as the product of a single firm or manufacturer; and *E-Pass Technologies, Inc. v. 3Com Corporation*, 343 F.3d 1364, 1368, 67 USPQ2d 1947, 1949 (Fed. Cir. 2003).

Goldstein teaches where the data repository relates types (e.g. manufacturers) of electronics equipments to their respective control codes. Specifically, Goldstein teaches a data repository (e.g. a data base) compiling all the required infrared *codes for operating appliances manufactured by various manufacturers* (column 15, lines 20-31). Goldstein teaches searching based on the information provided by the user to identify (match) the corresponding code in the data base (repository). Specifically, Goldstein *verifies that the data received from the user belongs to an equipment for which it has the corresponding infrared (IR) codes* (column 15, lines 49-57). Hence, although Goldstein teaches where the data repository that relates manufacturers consumer electronics to their respective control codes, and on which a query is performed based on information supplied by the user, he does not explicitly teach where said repository correlates the version and the brand with their corresponding control codes.

Lea teaches a storage that correlates the version and the brand of the device with their corresponding control code. Specifically, register (316 on Fig. 3) includes various types of relevant information regarding device, such as information specifying the manufacturer, model, version, serial number, and other fixed data that specifically corresponds to device and the appropriate software instructions for the device (column 5, lines 35-43).

Regarding arguments that Lea does not teach that the data repository on which a

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query is performed based on alphanumeric information supplied by a particular users. Goldstein teaches where the data repository that relates manufacturers consumer electronics to their respective control codes, and on which a query is performed based on information supplied by the user

5. It was argued that there is no motivation to combine the teachings of Lea and Goldstein because, Lea teaches away from enabling “a particular user to program the particular user’s remote control device”, because the present invention requires a user input.

In response to applicant’s argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, instant invention’s field of endeavor relates to broadly speaking a business model and network architecture supporting the interests of network operators, manufacturers of IP connected electronic equipment and end users of the equipment. The Lea reference relates to a method of managing the software residing on consumer electronic equipment connected to a network, thus with the invention’s field of endeavor. Goldstein teaching relates to devices which are used to remotely interact with various consumer electronic products using a remote control device which is programmable, thus with in the invention’s field of endeavor. Lea was introduced to teach repository correlates the version and the brand with their corresponding control codes. It would have been obvious to one of ordinary skill in the art at the time the invention was made given the teachings for programming a remote control device to controlling a variety of consumer equipment, the teachings of Lea for providing a registry comprising various types of consumer electronics devices above-mentioned including remote control device, would be readily apparent. One would be motivated utilize Lea’s registry methodology because in the network environment proposed by Lea operating in accordance the Home Audio/video interoperability specification applicable to the home network utilized in Goldstein’s environment without introducing modifications thereto because it software takes advantage or utilizes the

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resource built in the audio and video appliances to give the management function of a dedicated audio-video networking system easing the interoperability among the consumer electronic devices, as suggested by Lea.

6. Regarding claims 2-3 and 20-20, Appellant's arguments with respect to patentability are based on their dependency on claim 1. Thus, same rebuttal provided with respect to claim 1 is applicable based on this presented rationale

7. Regarding claims 7-12, 14-16, 19, 23 and 24 rejected over Goldstein in view of Lea in further view of LaRocca, it is argued that Goldstein does not teach providing control codes from server according to a user profile associated with the remote control device, *because the information display in Goldstein is associated with the services.*

In response to the above-mentioned argument, Appellant's interpretation of the applied prior art has been considered. The invention's specification has been reviewed for any controlling definition that may determine the interpretation applied the to claimed term(s) during examination. Since there was no definition given for the claimed term "user profile" in the specification of instant invention, these term should be given its broadest reasonable interpretation and take on the ordinary and customary meaning attributed to it by those of ordinary skill in the art (MPEP 2111/2106). Thus, the claimed term encompasses information or data about the user, which encompasses user's interaction with the service provider such as preferences, habits, user choices, and/or ser selection of services that define his/her subscription. Thus information about the user does not exclude services selected by the user, given the broadest reasonable interpretation of the claimed term "user profile".

Argued claim (7) limitation recites, "a network connectable appliance configured to program a remote control device based on data received from a dedicated server, according to a user profile associated with the remote control device".

Goldstein teaches a cable television converter (appliance) configured to program a remote control device based on data received from a dedicated server. Specifically, Goldstein teaches that when download programming code to the remote control device via the cable television converter (appliance) connected to a service provider, the remote control includes a

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touch screen which display icons representing services which the customer has subscribed, providing the customer with selection to be made by the customer based on the service for which a contract was obtained, this way the service provider controls the selections made by the customer (column 3, lines 45-51). The display is capable of producing a series of menus, all linked together so that the user may easily scroll through layer of the various functions and select a particular device and programming service (column 4, lines 6-10). In this manner, Goldstein teaches a network connectable appliance configured to program a remote control device based on data received from a dedicated server. Furthermore Goldstein teaches a user profile obtained through subscriber interaction with the service provide, where obtained information about the user is made to other parties for targeted advertisement, such as based on demographic, or customized content (see column 27, lines 31-40). Specifically, Goldstein teaches where **“the universal remote control which permits creation of a data base over a period of time which will include all activity and selection made using the universal remote control device”** for ordering services. Additionally, there is provided for the operation of various stereophonic **equipment, which have been made by the user over this time period.** (column 27, lines 19-30). This is a user profile “associated” with the remote control device.

Goldstein teaches where the **data base**, comprising an **event log for the universal remote control device**, may have value to a marketing research company. Thus, marketing research can **identify** the users tastes preferred by households within a region, ordering out **habits**, as well as other viewing habits and preferred entertainment features in a given locality. (column 27, lines 31-40). This is an user profile “associated” with the remote control device.

Goldstein teaches **recording selections made during the normal course of operating each of the remote controlled devices**, an **interactive capacity** such that users of the remote control device may indicate preferences when viewing an advertisement or other inquiry initiated at the broadcast facility. When the program being watched or listed to in the case of a radio broadcast, indicates that users should indicate a selection or preference by operating the keypad on the universal remote control device, **this preference or selection is an event to be recorded in the data base.** (column 27, lines 41-51) This is an user profile “associated” with the remote control device.

Appellant argues that the data received from a dedicated server in the Goldstein reference is not according to a user profile associated with the remote control device.

However, if the user selects subscribing to a programming service subscription which downloads programming code for programming the subscriber's remote control device, as a service (column 3, lines 29-44, 45-51). Thus, the user's subscription (information about the user) is associated with the remote control device.

The claimed clause recites "*a user profile associated with the remote control device*", does not recite, "*a user profile not with a service for programming the remote control device*". Information about the user "user profile" associated with the remote control device does not exclude information about the user associated with the remote control device programmed via a service. Information about the user (user's subscription) is associated with the remote control device, particularly, when the subscription is for programming a remote control device.

Nevertheless, LaRocca teaches a server having a data storage device (144/154) which maintain certain **databases of subscription package definitions and subscriber/consumer profile information** and which maintain a database containing **specific customer subscription information pertaining to a customer's type of service**, and level of service subscription information used to facilitate dependent subscriptions and contingent services (**column 5, lines 14-41**). LaRocca teaches where more generally, **the subscription packages** may consist of a collection of programs (or a collection of subscription packages) having a **common point of interest of the subscriber/consumer**, e.g., sports and the like. **Subscription packages** are alternatively **customized by a subscriber** at the time of subscription. (column 9, lines 48-55); The programming selections through manipulation of interactive menus and the program identification codes (PIDs) for the **selected programming are stored in the subscription database with the consumer's account number** (and/or PIN or TID, if needed), **are stored and accessible by the subscriber** without having the subscriber reenter the selection previously made (column 13, lines 7-15).

Thus, a subscription encompasses information about the user such as the user's interest or customized information provided/selected by the user either generated over time or at the time of subscription.

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Arguments that the applied prior teaches user's subscription (information about the user) is not associated with an user profile, nor with the subscription does not contain information about the user associated with the remote control device, have been considered but not found persuasive.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


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PRIMARY EXAMINER


bp

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